IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

WEDNESDAY, THE 22ND AUGUST 2007 / 31ST SRAVANA 1929

WP(C).No. 28285 of 2005(P)

AGAINST THE ORDER DATED 29.6.2005 IN E.A.17/2005 IN EP.228/03 IN OPMV.585/1992 of MOTOR ACCIDENT CLAIMS TRIBUNAL, PATHANAMTHITTA

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PETITIONER:

D.SHAJI, KOLADETHU PUTHEN VEEDU,
PARAKKODU, ADOOR.

BY ADV. SRI.C.VALSALAN
SRI.GHOSH YOHANNAN
SRI.K.RAKESH ROSHAN

RESPONDENTS:
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1. SOSAMMA KOSHY, PALAMOOTTIL MEKETHIL HOUSE, ELANTHOOR P.O., PATHANAMTHITTA.

2. K.M.MATHEW, PALAMOOTTIL MEKETHIL HOUSE, ELANTHOOR P.O., PATHANAMTHITTA.

3. K.M.THOMAS, PALAMOOTTIL MEKETHIL HOUSE, ELANTHOOR P.O., PATHANAMTHITTA.

4. ALEYAMMA PHILIP, OORAKKAL KAUDATHIL HOUSE, VALLAMKULAM P.O., THIRUVALLA.

5. K.M.AMMINIKUTTY, T.C.NO.11/779, ADEN GARDEN, VAYAL ROAD, PATTOM, THIRUVANANTHAPURAM.

6. REJIMON, S/O.FALGUNAN, KIZHAKKETHIL HOUSE, ELANTHOOR KIZHAKKUM MURI, ELANTHOOR POST, PATHANAMTHITTA.

R3 & R5 BY ADV. SRI.V.PHILIP MATHEWS

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 22/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX(WPC 28285/05)

PETITIONER'S EXTS.:

EXT.P1: TRUE COPY OF THE AWARD IN O.P.(MV) 585/92 OF MACT, PATHANAMTHITTA.

EXT.P2: TRUE COPY OF THE ORDER DATED 30.8.2003 IN E.P.6/99 IN O.P.(MV) 585/92 OF MACT, PATHANAMTHITTA.

EXT.P3: TRUE COPY OF THE E.P.NO.228 OF 2003 OF M.A.C.T., PATHANAMTHITTA.

EXT.P4: TRUE COPY OF E.A.NO.17 OF 2005 IN E.P.NO.228/03 IN O.P.(MV) 585/92.

EXT.P5: TRUE COPY OF THE ORDER IN E.A.17/05 IN E.P.228/03 IN O.P.(MV) 585/92 OF M.A.C.T., PATHANAMTHITTA.

PIUS C. KURIAKOSE,J.

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W.P.(C) No.28285 of 2005

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Dated: 22nd August, 2007

JUDGMENT

This Writ Petition is remaining defective on the reason that service is not completed on all the respondents. But I find that there is appearance for the claimants before the M.A.C.T. who are beneficiaries of Ext.P5 impugned order. This Writ Petition, therefore, need not be treated as defective.

2. Heard Mr.Ghosh Yohannan, learned counsel for the petitioner and Mr.V.Philip Mathews, counsel for the decree-holder-respondents.

3. Impugned in this Writ Petition is Ext.P5 under which the learned M.A.C.T. issued R.R.C. against the petitioners for realisation of the balance amount due under the award. This court became inclined to grant stay only on conditions. Thanks to the conditions imposed by this court a total amount of Rs.15,000/-, it is submitted, has been paid off. I do not find any warrant for setting aside Ext.P5 in the visitorial jurisdiction of this court under Article 227 of the Constitution. However, the Writ Petition will stand disposed of directing that the order of stay presently passed will continue on condition that the petitioner pays every month to the decree-holder-respondents at the rate of Rs.4000/- per month till such time as the

entire E.P.claim under Ext.P3 is wiped off. Once the petitioner becomes confident that the entire E.P. claim is paid off, he will file an application before the M.A.C.T. for cancellation of the R.R.C. and on receiving the application, the M.A.C.T. will pass orders with notice to the petitioner and also to the claimants-respondents.

srd **PIUS C.KURIAKOSE, JUDGE**